

103^D CONGRESS
2^D SESSION

H. R. 4518

To amend the Federal Trade Commission Act to provide a procedure for the termination of Federal Trade Commission orders which have been in effect for at least 10 years.

IN THE HOUSE OF REPRESENTATIVES

MAY 26, 1994

Mr. KOPETSKI (for himself, Mr. OXLEY, Mr. LAROCO, and Mr. KREIDLER) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Federal Trade Commission Act to provide a procedure for the termination of Federal Trade Commission orders which have been in effect for at least 10 years.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “FTC Order Review
5 Procedure Act of 1994”.

6 **SEC. 2. TERMINATION OF ORDERS.**

7 Section 5 of the Federal Trade Commission Act (15
8 U.S.C. 45) is amended by adding at the end the following:

1 “(n)(1) In January following the date of the enact-
2 ment of this subsection, and in each January thereafter,
3 the Commission shall publish in the Federal Register a
4 list of all final Commission antitrust and consumer protec-
5 tion orders issued by the Commission that—

6 “(A) are in effect on the date on which the list
7 is published in the Federal Register, and

8 “(B) have been final orders of the Commission
9 for a period of 10 years or more on the date on
10 which the list is published in the Federal Register.

11 “(2)(A) Except for an order described in subpara-
12 graph (B) or an order which is not required to have a
13 termination provision under paragraph (3), any order of
14 the Commission which has been final for more than 10
15 years shall be set aside in response to a petition of the
16 Commission for a proceeding under subsection (b) for the
17 termination of the order unless the Commission deter-
18 mines, based upon a preponderance of the evidence, that
19 the continuation of the market conditions giving rise to
20 the order or the conduct of the person subject to the order
21 following entry of the order require the order to remain
22 in effect to achieve the original purpose of the order.

23 “(B) An order referred to in subparagraph (A) is an
24 order which—

1 “(i) enjoins conduct subject to per se con-
2 demnation under the Sherman Act or is issued to
3 protect the public from fraudulent conduct, or

4 “(ii) is based on a Commission finding based on
5 a preponderance of the evidence that there is a de-
6 monstrably high probability that the kind of conduct
7 which resulted in the Commission issuing the order
8 is likely to recur.

9 “(3) Any Commission order issued after the date of
10 enactment of this subsection shall include a provision
11 which terminates the order 10 years after the date the
12 order becomes final unless it is an order which—

13 “(A) enjoins conduct subject to per se con-
14 demnation under the Sherman Act or is issued to
15 protect the public from fraudulent conduct, or

16 “(B) is based on a Commission finding based
17 on a preponderance of the evidence that there is a
18 demonstrably high probability that the kind of con-
19 duct which resulted in the Commission issuing the
20 order is likely to recur.

21 “(4) After the date of enactment of this subsection,
22 any court ruling that enforces, amends, or supplements
23 a Commission order that has been terminated pursuant
24 to this subsection shall be vacated upon the filing of a
25 petition in the relevant court which truthfully asserts that

- 1 the related Commission order has been terminated and
- 2 which requests that the court ruling be vacated.”.

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